

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**KIMBERLY HAYWARD, JUSTIN PARKER,
DIANE PEACH, ABOUYEA THORNTON,
JESSICA WHITT, and SARAH YOHN,**

Plaintiffs,

-v-

NOTICE OF REMOVAL

Civil Action No. 1:21-cv-1033

**CATHOLIC HEALTH SYSTEMS,
MERCY HOSPITAL OF BUFFALO,
METZ CULINARY MANAGEMENT, INC.,
LISA ROBERT, and BILTON LANDS**

Defendants.

Please take notice that, pursuant to 28 U.S.C. §§ 1441 and 1446, defendants Catholic Health System and Mercy Hospital of Buffalo (“Defendants”) hereby remove to the United States District Court for the Western District of New York the civil action filed on August 19, 2021 in the Supreme Court of the State of New York, County of Erie, entitled *Kimberly Hayward et al v. Catholic Health Systems et al*, and assigned Index No. 811552/2021 (the “State Court Action”).

THE REMOVAL IS TIMELY

1. Defendants received copies of the Summons and Complaint in the State Court Action on August 20, 2021.
2. This Notice of Removal is filed within 30 days of said receipt of the Summons and Complaint and is therefore timely under 28 U.S.C. § 1446(b).

PAPERS FROM THE REMOVED ACTION

3. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81(a)(3), an Index from the State Court Action as well as each document filed and/or served therein is attached to this Notice.

4. A copy of an Index of all documents filed and/or served in the State Court Action is attached as **Exhibit A**.

5. A copy of the Summons is attached as **Exhibit B**.

6. A copy of the Complaint is attached as **Exhibit C**.

7. A copy of the Affidavit of Service on co-defendant Lisa Robert is attached as **Exhibit D**.

8. A copy of the purported Affidavit of Service on Defendant Mercy Hospital of Buffalo is attached as **Exhibit E**.

9. A copy of the Affidavit of Service on co-defendant Metz Culinary Management, Inc. is attached as **Exhibit F**.

10. A copy of the Affidavit of Service on Defendant Catholic Health Systems is attached as **Exhibit G**.

11. A copy of a Notice of Appearance by Bhavleen K. Sabharwal of the Law Firm of Eustace, Prezioso & Yapchanyk on behalf of co-defendants is attached as **Exhibit H**.

12. A copy of a Stipulation extending co-defendants' time to answer the Complaint is attached as **Exhibit I**.

CONSENT TO REMOVAL

13. All defendants who have been properly joined and served in this action as of the date of this Notice of Removal consent to the removal of this action pursuant to 28 U.S.C. § 1446(b)(2)(A).

THE COURT HAS JURISDICTION

14. The Complaint alleges, *inter alia*, claims for violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., and the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, et seq., and thus arises under the laws of the United States.

15. Accordingly, this Court has original jurisdiction over the action pursuant to 28 U.S.C. § 1331, and this action may be removed to this Court pursuant to 28 U.S.C. § 1441 without regard to citizenship of the parties or the amount in controversy.

THE VENUE REQUIREMENT IS MET

16. Venue of this removal is proper under 28 U.S.C. 1441(a) because this Court is the United States District Court for the District corresponding to Erie County, where the State Court Action was pending.

FILING OF REMOVAL PAPERS

17. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice will be given to Plaintiffs and a Notice of Filing of Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of Erie.

18. A true and correct copy of the Notice of Filing of Notice of Removal is attached hereto as **Exhibit J**. Pursuant to Local Rule 81, a copy of this Notice of Removal will be provided to all parties to the action.

WHEREFORE, Defendants hereby remove this action, currently docketed in the Supreme Court of the State of New York, County of Erie, Index No. 811552/2021, to the United States District Court, Western District of New York.

September 17, 2021

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